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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,564	03/06/2001	Ian John Smith		4049

7590

10/22/2003

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/743,564

Applicant(s)

SMITH ET AL.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 103-173 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 103, 110-119, 121-125, 132-141, 143-147, 150, 152-164 and 167-173 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 104-109,120,126-131,142,148,149,151,165,166 and 168.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species of Group IB, IIA, and IIIA in Paper No. 8 is acknowledged and the further withdrawal of claims in Paper No. 11 is maintained.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

3. Claims 110-113, 125, 132-135, 138-141, 143, 144, 152-154, 162, 163, 167, and 169-171 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the claims are rejected for the following reasons:

Claims 110, 132, 152, and 169 each recites the limitation "said front part" in line 2. There is insufficient antecedent basis for this limitation in the claims.

In claims 125 and 162, "at least said one line of weakness" is not reflective of "at least one line of weakness".

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 103

4. Claims 103, 110-113, 116, 117, 121-125, 132-135, 138, 139, 143, and 144 are rejected under 35 U.S.C. 103(a) as being unpatentable over CITO-Kunststoffe, German Gebrauchsmuster No. G9003401.5 (CITO).

The bag illustrated in Figures 1-3 of CITO teaches an open end which is present prior to filling CITO's bag and which is subsequently closed with a weld seam. Note page 6 of the

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translation. The open end, which is formed by the top edge of the rear panel and the top edge of the closure flap, is distinct from the bag mouth which is formed by the top edge of front wall. The bag does teach the line of peelable adhesive extends continuously across the front face of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the line of adhesive continuously across the face of the bag. Doing so maintains the sanitary conditions of the inside of the pouch by preventing ingress and egress which could effect the condition of the bag.

5. Claims 114,115,136, and 137 are rejected under 35 U.S.C. 103(a) as being unpatentable over CITO in view of Herrington (US 4,410,130).

CITO teaches the claimed bag except for a second flap depending from a fold at the edge of the mouth.

Herrington teaches it is known to provide a flap **15** extending inwardly from a fold at the mouth of the bag. The flap is attachable via adhesive to the inside face of the second side wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a flap **15** extending inwardly from a fold at the mouth of the bag. Doing so prevents inadvertent spillage or loss of the bag contents since such would be engaged by the unsealed horizontally extending edge of the flap.

6. Claims 118,119, 140, and 141 are rejected under 35 U.S.C. 103(a) as being unpatentable over the bag illustrated in Figures 1-3 of CITO in view of Moran (US 3,534,520).

CITO teaches the claimed bag except for a self-standing bottom and miter seals.

Moran teaches it is known to provide a bag with a bottom construction to allow the bag to stably stand on the bottom surface.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide CITO's bag with the bottom construction disclosed by Moran, which includes the claimed miter seals because Moran's bottom structure facilitates squaring up the bag bottom so that it will stand up by itself. Doing so allows the bag to stand up by itself.

7. Claims 145-147, 150, 152-154, 157-164, 167, and 169-171 are rejected under 35 U.S.C. 103(a) as being unpatentable over the bag illustrated in Figures 1-3 of CITO in view of Moran.

CITO teaches the claimed bag except for a self-standing bottom and miter seals.

Moran teaches it is known to provide a bag with a bottom construction to allow the bag to stably stand on the bottom surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide CITO's bag with the bottom construction disclosed by Moran, which includes the claimed miter seals because Moran's bottom structure facilitates squaring up the bag bottom so that it will stand up by itself. Doing so allows the bag to stand up by itself.

8. Claims 155, 156, 172, and 173 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 145 above, and further in view of Herrington.

CITO as modified teaches the claimed bag except for a second flap depending from a fold at the edge of the mouth.

Herrington teaches it is known to provide a flap 15 extending inwardly from a fold at the mouth of the bag. The flap is attachable via adhesive to the inside face of the second side wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a flap 15 extending inwardly from a fold at the mouth of the bag. Doing so prevents inadvertent spillage or loss of the bag contents since such would be engaged by the unsealed horizontally extending edge of the flap.

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Response to Arguments

9. Applicant's arguments filed July 25, 2003 have been fully considered but they are not persuasive.

Applicant argues the prior art of record does not teach continuously extending lines of adhesive. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lines of adhesive to be continuously extending across the bag wall to prevent ingress and egress and maintain the sterile environment of the inner bag as set forth herein.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various bags have features similar to the disclosed and/or claimed are cited for their disclosures.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302 or (703) 872-9303 for after final amendments. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-____ on the date shown below:

Typed or printed name of person signing this certificate

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Signature_____

Date_____


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
October 20, 2003


Robin A. Hylton
Primary Examiner
GAU 3727